

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RFA NO.1966 of 1991

DATE OF DECISION: November 1, 2006

State of Haryana and another

....Appellants

VERSUS

Ram Phal and others

.....Respondents

CORAM:- HON'BLE MR. JUSTICE VINEY MITTAL

PRESENT: Shri H.S.Hooda, Advocate General, Haryana with
Shri Ramesh Hooda, Advocate for the State of Haryana.
Shri S.C.Kapoor, Senior Advocate with
Shri Harminder Singh, Advocate for the claimant-
land owners.

Viney Mittal, J.(Oral).

The present batch of first appeals have arisen out of a common award dated June 3, 1991 passed by the learned Additional District Judge, Rohtak, whereby the assessment of the market value of the acquired land has been made. Whereas, the claimant-land owners have filed the appeals claiming enhancement of compensation for their acquired land, State of Haryana has also filed appeals claiming reduction of the market value.

Vide a notification dated January 15, 1987 issued under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as the Act), land measuring 25.58 acres in village Rohad, Tehsil Bahadurgarh, District Rohtak was notified for acquisition for construction of a Rohad bye-pass. Subsequently, the said land was

acquired. The Land Acquisition Collector rendered his award dated May 30, 1987. The acquired land was classified into two categories. Rs.40,000/- per acre was assessed as the market value for Chahi/Nehri and Gair Mumkin lands; whereas, for Barani land Rs.30,000/- was assessed as market value. The claimant land owners remained dissatisfied with the aforesaid assessment of the market value and claimed references under Section 18 of the Act. The matter was duly referred.

In the reference proceedings, the parties led their evidence. The claimant-land owners, besides producing oral evidence also produced on record copies of the sale deeds Ex.P.1 to P.11. Similarly, the State of Haryana also produced on record various sale instances. The learned Reference Court ruled out of consideration the sale instances relied upon by the State of Haryana on the ground that the price reflected by the said sale instances was even lower than the assessment made by the Land Acquisition Collector. The sale instances Ex.P4 and Ex.P5 as well as Ex.P7 to P11 were also rejected. Whereas, the sale instances Ex.P4 and Ex.P5 were rejected on the ground that the sales were post notification sales, the sale instances Ex.P8 to P.11 were rejected on the ground that the sale instances did not pertain to village Rohad but pertained to village Sampla and no evidence was produced to show the proximity of the land of village Sampla with the acquired land. Sale instances Ex.P.1 to P3 were also ruled out of consideration on account of smallness of area which was sold vide the aforesaid three sale deeds. Additionally, Ex.P1 was ruled out of consideration on account of the fact that the same was 1-1/2 years after the notification. In these circumstances,

the assessment of the market value was made by the Reference Court only on the sale instance which had remained available for consideration i.e. Ex.P6 dated June 24,1983. Vide the aforesaid sale deed, 3 kanals and 8 marlas of land was sold on the aforesaid date for a consideration of Rs.35,000/- reflecting a price of Rs.82,350/- per acre. The Reference Court also noticed that the aforesaid land was sold by one Lal Chand resident of Rohad to Maman and Tek Chand residents of the same village for agricultural purposes, 2-1/2 years prior to the issuance of notification. It was also observed by the Reference Court that the area reflected by the such sales was not so small, which could be ruled out of consideration. The plea raised by the claimant land owners that since there was a time gap of 2/1/2 years between sale instance and the date of notification for the acquisition, therefore, further enhancement was required on the ground was however rejected by observing that there was a possibility that a higher price might have reflected on account of right of pre-emption available.

In these circumstances, the reference court chose to adopt the price reflected by the aforesaid sale deed Ex.P.6 as the market value and assessed market value of the acquired land at the rate of Rs.82,350/- per acre for the entire acquired land at a uniform rate. The claimant land owners were also held entitled to statutory benefits.

As noticed above, the claimants as well as the State of Haryana are in appeal.

I have heard and Shri Hawa Singh Hooda, the learned Advocate General, Haryana and Shri S.C.Kapoor, the learned senior

counsel appearing for the claimants and with their assistance have also gone through the record of the case.

Shri S.C.Kapoor, the learned senior counsel appearing for the claimant land owners has very vehemently argued that there were many sale instances which were produced on record by the claimants and as such there was absolutely no justification for the Reference Court to rule out of consideration the said evidence. The learned senior counsel has also maintained that even if the sale instance Ex.P6 was to be taken into consideration, still the said sale had taken place 2-1/2 years prior to the issuance of notification and as such the said period entitled the claimants further enhancement on account of the said time gap.

On the other hand, Shri Hawa Singh Hooda, learned Advocate General, Haryana with an equal vehemence has argued that the Reference Court had chosen to accept the sale deed Ex.P6 which pertained only to an area of 3 kanals and 8 marlas of land and since the Reference Court had itself observed that possibility of a higher price being reflected in the said sale deed on account of a right of pre-emption available to the other persons, could not be ruled out, therefore, a reasonable cut should have been applied while assessing the market value.

I have duly considered the aforesaid rival contentions of the learned counsel for the parties. I have also gone through the record of the case.

In my considered opinion, as far as the plea of the claimants that the other evidence except Ex.P6 led by them has not been taken into consideration is concerned, the same does not merit

any acceptance. The learned Reference Court had taken into consideration the entire documentary evidence produced by the claimants. The sale instance Ex.P1 is dated May 21, 1988 i.e. after the notification. It pertains to sale of 17 marlas of land for Rs.40,000/-. Besides the fact that the sale pertains to small area only the said sale being post notification sale has rightly been ruled out of consideration. Similarly, sale deed Ex.P2 pertains to only sale of area of 320 square yards. Although the said sale was made on August 30,1978 i.e. a decade before the issuance of notification but the Reference Court has rightly observed that the said sale deed did not reflect the market value on the date of issuance of notification. Similar is the case with regard to sale deed Ex.P3 which pertains to only an area of 17 marlas of land. Ex.P4 and Ex.P5 are the sale deeds dated March 28, 1990 i.e. more than 3 years after the notification under Section 4 of the Act had been issued. Ex.P7 to Ex.P11 are the sale deeds pertaining to village Sampla. The same can also not be taken to be reflective of the market value of land of village Rohad. In these circumstances the Reference Court had rightly relied upon the only sale instance left for consideration i.e. sale instance Ex.P6.

However, I find that the observation made by the Reference Court that the claimant land owners were not entitled to higher price for the time period between the date of execution of the sale deed Ex.P6 i.e. June 24, 1983 and the date of notification i.e. January 15, 1987 is without any justification. The learned Reference Court had entered into a realm of absolutely conjectures when it has held that it could not be ruled out that a higher price might have been reflected on account of the right of pre-emption being available. In

my considered opinion, once the sale deed Ex.P6 has been taken into consideration being reflective of the market price on the date when the same was executed, then it cannot be held that the price mentioned in the sale deed was inflated, in any manner. In these circumstances, the claimant land owners are entitled to some enhancement for the time period of 2-1/2 years between the date of the execution of the sale deed i.e. June 24, 1983 and the date of notification i.e. January 15, 1987.

In my considered opinion, taking into consideration the comparatively small area i.e. 3 kanals and 8 marals for which the sale deed Ex.P6 was executed and the price reflected thereby i.e. Rs.82,353/-, it would be just and appropriate that if the market value of the acquired land on the date of notification i.e. January 15, 1987 is assessed at Rs.1 lacs per acre. The same is accordingly so assessed.

Besides the aforesaid compensation, the claimant land owners shall also be entitled to other statutory benefits as admissible to them in accordance with law.

Consequently, the appeals filed by the claimant land owners are allowed to the extent indicated above. As a result thereof, the appeals filed by the State of Haryana are dismissed.

November 1, 2006
KD

(Viney Mittal)
Judge

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CORAM:- HON'BLE MR. JUSTICE VINEY MITTAL

Viney Mittal, J.

Same order as in RFA No.1966 of 1991 (State of Haryana and another vs. Ram Phal and others), decided on November 1, 2006.

November 1, 2006
KD

(Viney Mittal)
Judge